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CONSTITUTIONAL LAW—DUE PROCESS OF LAW—WHITE AND NEGRO PUPILS.—Plaintiff in error, a corporation, was convicted of violating a statute of Kentucky which made it unlawful for any person or corporation to operate any college, school, or institution where persons of the white and negro races are both received as pupils for instruction and imposing a fine of \$1,000 for violation of the statute. *Held*, as the state had reserved the power to alter or amend the charter of the corporation the statute did not, as applied to it, deny it due process of law nor did it otherwise violate the Federal Constitution. (Mr. Justice HARLAN and Mr. Justice DAY dissent.) *Berea College v. Kentucky* (1908), 29 Sup. Ct. 33.

The granting of a right to be a corporation rests entirely within the discretion of the state, and when granted may be accompanied with such conditions as the legislature may deem necessary. *Home Ins. Co. v. State of N. Y.*, 134 U. S. 594 at 600; *Horn Silver Mining Co. v. State of N. Y.*, 143 U. S. 305 at 312; *Dartmouth College Case*, 4 Wheat. 518. The act under which the college was incorporated provided that every grant of a franchise shall remain subject to alteration or revocation. Ky. St. 1903 (Carroll), p. 86, *Bill of Rights*. While under this power alterations or amendments to the charter may be made, these alterations or amendments must not defeat or substantially impair the object of the grant. *Comm. of Inland Fisheries v. Holyoke Water Co.*, 104 Mass. 446; *In the matter of Oliver Lee & Co.'s Bank*, 21 N. Y. 9; *Comm. v. Eastern R. R.*, 103 Mass. 254; *Holyoke Co. v. Lyman*, 15 Wall. 500. This statute does not forbid teaching the races separately, hence, it does not defeat or impair the object of the grant. The act need not be construed as a whole, since it is separable in so far as it is to be applied to persons and corporations and the unconstitutional part being separable from the remainder, the latter part, i. e., the part applying to corporations, is valid. *Warren et al. v. Mayor of Charleston*, 2 Gray 84; *Huntington v. Worthen*, 120 U. S. 97; *Allen v. Louisiana*, 103 U. S. 80; *Marshall Field Co. v. Clark*, 143 U. S. 649. The effect of the 14th Amendment was to extend the protection of the Constitution to a new class. *Slaughter House Cases*, 16 Wall. 36. It does not, however, guarantee social equality. *Cory v. Carter*, 48 Ind. 327. And the state may, in the exercise of its police power, enact laws which if they do not deprive the negro of a fundamental right are not within the purview of the Amendment. *State v. Hairston & Williams*, 63 N. C. 451; *State v. Jackson*, 80 Mo. 175 (prohibiting intermarriage); *People of State of N. Y. Ex rel Cisco v. Borough of Queens*, 161 N. Y. 598; *Lehen v. Brummell*, 103 Mo. 546 (prohibiting attendance at same school); *Smith v. State*, 100 Tenn. 494; *Chesapeake & Ohio R. R. v. Kentucky*, 179 U. S. 388 (providing special cars). The dissent is based on the ground that the act is not separable and that it violates the 14th Amendment.

CONSTITUTIONAL LAW—INTERSTATE COMMERCE—POWER OF CONGRESS TO REGULATE.—The “commodities clause” of the Interstate Commerce Act provides that after May 1st, 1908, it shall be unlawful for any railroad corporation to transport from one state to any other state any article or commodity